IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6493 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NARENDRA SARABHAI SHAH

Versus

COLLECTOR OF STAMPS

Appearance:

1. Special Civil Application No. 6493 of 2004

MR SHALIN N MEHTA for Petitioner No. 1

MR MR MENGDEY A.G.P. for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 02/11/2004

ORAL JUDGEMENT

1. In this petition the petitioners has challenged the impugned notice dated 30th April, 2004 issued by the Collector calling upon the petitioners to show cause as to why differential stamp duty plus penalty be not levied

on them in respect of the instrument (Sale Deeds) of the land in question.

2. Mr. Shalin Mehta learned advocate for the petitioner contended that the impugned notice was issued to the petitioner almost 4 years after expiry of the period of limitation which is beyond the period of six years from the date of registration of the instrument. He further submitted that no prior notice or an opportunity of hearing was accorded to the petitioner before passing the impugned notice.

3. As against that the respondents have filed their reply, wherein they have stated that the notice was issued to the petitioner within the limitation period of six years from the date of registration of the instrument. It is further stated that the petitioner was issued several notices for making his submissions as well as for producing the relevant documents in his favour, Since the petitioner chose not to do so, the respondent authorities were constrained to issue ex-parte impugned notice dated 30th April, 2004.

4. Heard the learned advocate for the respective parties. In view of the unamended provision of Section 32 (A)(4) of Bombay Stamps Act, and even under the amended provisions of the said Act, the notice is required to be issued within six years. However, in the present case, the notice is issued after a period of almost 4 years after expiry of the period of limitation. Thus, only on the ground of limitation, the impugned notice is required to be quashed and set aside. Accordingly, the impugned notice is hereby ordered to be quashed and set aside. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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